

ORDER NO. 3380

UNITED STATES OF AMERICA
POSTAL REGULATORY COMMISSION
WASHINGTON, DC 20268-0001

Before Commissioners:

Robert G. Taub, Acting Chairman;
Nanci E. Langley, Vice Chairman;
Mark Acton; and
Tony Hammond

Competitive Product Prices
Global Plus 3 Contracts (MC2016-152)
Negotiated Service Agreements

Docket No. CP2016-202

ORDER APPROVING ADDITIONAL GLOBAL PLUS 3
NEGOTIATED SERVICE AGREEMENT

(Issued June 24, 2016)

I. INTRODUCTION

The Postal Service seeks to include an additional Global Plus 3 agreement (Agreement) within the Global Plus 3 product.¹ For the reasons discussed below, the Commission approves the Postal Service's request.

¹ Notice of the United States Postal Service of Filing a Functionally Equivalent Global Plus 3 Negotiated Service Agreement and Application for Non-Public Treatment of Materials Filed Under Seal, June 14, 2016 (Notice).

II. BACKGROUND

Agreements included within the Global Plus 3 product offer volume-based prices to Postal Qualified Wholesalers and other high-volume mailers that offer mailing services to their end-use customers who ship mail and articles via any combination of the following: International Priority Airmail, International Surface Air Lift, Priority Mail Express International, Priority Mail International, and Commercial ePackets. Notice, Attachment 1 at 1. Global Plus 3 agreements also permit the contract partner to act as a reseller for Priority Mail Express International and Priority Mail International at discounted prices. *Id.*

On June 14, 2016, in accordance with 39 C.F.R. § 3015.5, the Postal Service filed its Notice, along with supporting documents. In the Notice, the Postal Service asserts that the Agreement is functionally equivalent to the baseline agreement for the Global Plus 3 product and requests that the Agreement be added to the existing Global Plus 3 product. *Id.* at 2. Among the supporting documents, the Postal Service included a copy of the Governors' Decision authorizing the Global Plus 3 product, the Agreement proposed to be added to the product, a certification of compliance with 39 U.S.C. § 3633(a), and financial workpapers. In addition, the Postal Service submitted an application for non-public treatment of materials requesting that unredacted portions of the Agreement, customer-identifying information, and related financial information remain under seal. *Id.* Attachment 4.

The Agreement is intended to take effect July 1, 2016. Notice at 3. It is set to expire June 30, 2017. *See id.*

On June 15, 2016, the Commission provided public notice of the Postal Service's filing; established the instant docket for consideration of the filing's consistency with applicable statutory policies and Commission regulations; appointed a Public Representative; and provided an opportunity to comment.²

² Notice Initiating Docket(s) for Recent Postal Service Negotiated Service Agreement Filings, June 15, 2016.

III. COMMENTS

The Public Representative filed comments on June 22, 2016.³ No other comments were received.

Based upon a review of the Postal Service's filing, including the information filed under seal with the Commission, the Public Representative concurs with the Postal Service that the Agreement is functionally equivalent to the baseline agreement and should be added to the Global Plus 3 product. PR Comments at 2. She also states that the negotiated prices should generate sufficient revenue to cover costs and satisfy 39 U.S.C. § 3633. *Id.*

IV. COMMISSION ANALYSIS

The Commission's responsibilities in this case are to ensure that the Agreement: (1) is functionally equivalent to the baseline agreement established for the Global Plus 3 product; and (2) satisfies the requirements of 39 U.S.C. § 3633 and applicable Commission rules (39 C.F.R. §§ 3015.5 and 3015.7).

Functional equivalence. In Order No. 3378, the Commission added the Global Plus 3 product to the competitive product list and designated an agreement as the baseline agreement for assessing the functional equivalence of agreements proposed for inclusion within the Global Plus 3 product.⁴

The Postal Service asserts that its filing demonstrates that the Agreement is functionally equivalent to the baseline agreement and requests that the Agreement be included within the Global Plus 3 product. Notice at 2. It asserts that the Agreement fits within the draft Mail Classification Schedule language for the Global Plus 3 product. *Id.* at 3. The Postal Service also asserts that the Agreement and the baseline agreement

³ Public Representative Comments on Postal Service Notice of Filing a Functionally Equivalent Global Plus 3 Negotiated Service Agreement, June 22, 2016 (PR Comments).

⁴ Docket Nos. MC2016-152 and CP2016-196, Order Adding Global Plus 3 to the Competitive Product List and Approval of Designation as Baseline Agreement, June 21, 2016, at 7-8 (Order No. 3378).

possess similar cost and market characteristics and the same functional terms but states that prices may differ. *Id.* at 3-4. The Postal Service identifies numerous differences between the Agreement and the baseline agreement but asserts that these differences do not affect the fundamental service being offered or the fundamental structure of the Agreement.⁵

The Commission has reviewed the Postal Service's reasons for asserting that the Agreement shares similar cost and market characteristics with the baseline agreement; meets the pricing formula and falls within the classification established in the Governors' Decision authorizing this product; and comports with 39 U.S.C. § 3633 and applicable Commission rules. It also has considered the Public Representative's comments. The Commission concludes that the Agreement is substantially similar to the baseline agreement and that the differences between them do not fundamentally alter either the service the Postal Service will provide under the Agreement or the structure of the Agreement. The Commission therefore finds that the Agreement may be included within the Global Plus 3 product.

Cost considerations. The Commission reviews each competitive product to ensure that it covers its attributable costs, does not cause market dominant products to subsidize competitive products as a whole, and contributes to the Postal Service's institutional costs. 39 U.S.C. § 3633(a); 39 C.F.R. §§ 3015.5 and 3015.7. As long as the revenue generated by a product exceeds its attributable costs, the product is unlikely to reduce the contribution of competitive products as a whole or to adversely affect the ability of competitive products as a whole to contribute an appropriate share of institutional costs. In other words, a product that covers its attributable costs is likely to comply with 39 U.S.C. § 3633(a).

The Commission has reviewed the Postal Service's filing, including supporting financial analyses provided under seal, and the Public Representative's comments. The Notice includes a certified statement that the Agreement complies with the

⁵ *Id.* at 5. Differences include, among others, revisions to existing articles and annexes and the name and address of the customer. *Id.*

requirements of 39 U.S.C. § 3633(a). Notice, Attachment 2. The Postal Service also filed supporting revenue and cost data showing that the Agreement is expected to cover its costs. Based on this review, the Commission finds that the rates during the one-year term should cover the Agreement's attributable costs. 39 U.S.C. § 3633(a)(2). For this reason, the Commission also finds that the addition of the Agreement to the Global Plus 3 product should not result in competitive products as a whole being subsidized by market dominant products, in accordance with 39 U.S.C. § 3633(a)(1). Similarly, it finds the addition of the Agreement to the Global Plus 3 product is unlikely to prevent competitive products as a whole from contributing an appropriate share of institutional costs, consistent with 39 U.S.C. § 3633(a)(3). See also 39 C.F.R. § 3015.7(c).

Accordingly, a preliminary review of the Agreement indicates it is consistent with section 3633(a). The Commission will review the Agreement's cost coverage, the cost coverage of the Global Plus 3 product, and the contribution of competitive products as a whole to the Postal Service's institutional costs in the Annual Compliance Determination to ensure that they continue to comply with 39 U.S.C. § 3633(a).

Other considerations. The intended effective date of the Agreement is July 1, 2016. Notice at 3. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement. The contract is set to expire on June 30, 2017. See *id.* If the Agreement is terminated prior to the scheduled expiration date, the Postal Service shall promptly file notice of such termination with the Commission in this docket.

V. ORDERING PARAGRAPHS

It is ordered:

1. The Agreement filed in Docket No. CP2016-202 is included within the Global Plus 3 (MC2016-152) product. The revision to the Mail Classification Schedule appears below the signature of this Order and is effective immediately.

2. The Postal Service shall promptly notify the Commission should there be a change in the effective date of the Agreement.
3. The Postal Service shall promptly file notice of the Agreement's termination with the Commission in this docket if the Agreement is terminated prior to the scheduled expiration date.

By the Commission.

Stacy L. Ruble
Secretary

CHANGES TO THE MAIL CLASSIFICATION SCHEDULE

The following material represents a change to the Mail Classification Schedule. The Commission uses two main conventions when making changes to the Mail Classification Schedule. New text is underlined. Deleted text is struck through.

Part B—Competitive Products

2500 Negotiated Service Agreements

2510 Outbound International

2510.6 Global Plus Contracts

2510.6.6 Products Included in Group (Agreements)

Each product is followed by a list of agreements included within that product.

- Global Plus 3
 - Baseline Reference*
 - Docket Nos. MC2016-152 and CP2016-196
 - PRC Order No. 3378, June 21, 2016
 - Included Agreements*
 - *****
 - CP2016-202, expires June 30, 2017
 - *****